

FMCSA committed in issuing the safety rating. The motor carrier must include a list of all factual and procedural issues in dispute, and any information or documents that support its argument.

(c) The motor carrier must submit its request in writing to the Chief Safety Officer, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590-0001.

(1) If a motor carrier has received a notice of a proposed “unsatisfactory” safety rating, it should submit its request within 15 days from the date of the notice. This time frame will allow the FMCSA to issue a written decision before the prohibitions outlined in §385.13 (a)(1) and (2) take effect. Failure to petition within this 15-day period may prevent the FMCSA from issuing a final decision before such prohibitions take effect.

(2) A motor carrier must make a request for an administrative review within 90 days of the date of the proposed safety rating issued under §385.11 (c) or a final safety rating issued under §385.11 (b), or within 90 days after denial of a request for a change in rating under §385.17(i).

(d) The FMCSA may ask the motor carrier to submit additional data and attend a conference to discuss the safety rating. If the motor carrier does not provide the information requested, or does not attend the conference, the FMCSA may dismiss its request for review.

(e) The FMCSA will notify the motor carrier in writing of its decision following the administrative review. The FMCSA will complete its review:

(1) Within 30 days after receiving a request from a hazardous materials or passenger motor carrier that has received a proposed or final “unsatisfactory” safety rating.

(2) Within 45 days after receiving a request from any other motor carrier that has received a proposed or final “unsatisfactory” safety rating.

(f) The decision constitutes final agency action.

(g) Any motor carrier may request a rating change under the provisions of §385.17.

[65 FR 50935, Aug. 22, 2000, as amended at 72 FR 55701, Oct. 1, 2007; 75 FR 17241, Apr. 5, 2010]

§385.17 Change to safety rating based upon corrective actions.

(a) A motor carrier that has taken action to correct the deficiencies that resulted in a proposed or final rating of “conditional” or “unsatisfactory” may request a rating change at any time.

(b) A motor carrier must make this request in writing to the FMCSA Service Center for the geographic area where the carrier maintains its principal place of business. The addresses and geographical boundaries of the Service Centers are listed in §390.27 of this chapter.

(c) The motor carrier must base its request upon evidence that it has taken corrective actions and that its operations currently meet the safety standard and factors specified in §§385.5 and 385.7. The request must include a written description of corrective actions taken, and other documentation the carrier wishes the FMCSA to consider.

(d) The FMCSA will make a final determination on the request for change based upon the documentation the motor carrier submits, and any additional relevant information.

(e) The FMCSA will perform reviews of requests made by motor carriers with a proposed or final “unsatisfactory” safety rating in the following time periods after the motor carrier’s request:

(1) Within 30 days for motor carriers transporting passengers in CMVs or placardable quantities of hazardous materials.

(2) Within 45 days for all other motor carriers.

(f) The filing of a request for change to a proposed or final safety rating under this section does not stay the 45-day period specified in §385.13(a)(1) for motor carriers transporting passengers or hazardous materials. If the motor carrier has submitted evidence that corrective actions have been taken pursuant to this section and the FMCSA cannot make a final determination

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within the 45-day period, the period before the proposed safety rating becomes final may be extended for up to 10 days at the discretion of the FMCSA.

(g) FMCSA may allow a motor carrier (except a motor carrier transporting passengers or a motor carrier transporting hazardous materials in quantities requiring placarding) with a proposed rating of “unsatisfactory” to continue its motor carrier operations in commerce for up to 60 days beyond the 60 days specified in the proposed rating, if FMCSA determines that the motor carrier is making a good faith effort to improve its safety status. This additional period would begin on the 61st day after the date of the notice of proposed “unsatisfactory” rating.

(h) If the FMCSA determines that the motor carrier has taken the corrective actions required and that its operations currently meet the safety standard and factors specified in §§ 385.5 and 385.7, the agency will notify the motor carrier in writing of its upgraded safety rating.

(i) If the FMCSA determines that the motor carrier has not taken all the corrective actions required, or that its operations still fail to meet the safety standard and factors specified in §§ 385.5 and 385.7, the agency will notify the motor carrier in writing.

(j) Any motor carrier whose request for change is denied in accordance with paragraph (i) of this section may request administrative review under the procedures of § 385.15. The motor carrier must make the request within 90 days of the denial of the request for a rating change. If the proposed rating has become final, it shall remain in effect during the period of any administrative review.

(k) An upgraded safety rating based upon corrective action under this section will have no effect on an otherwise applicable notice of remedial directive, or proposed determination of unfitness issued in accordance with subpart J of this part.

(l) A motor carrier may not request a rescission of a determination of

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unfitness issued under subpart J of this part based on corrective action.

[65 FR 50935, Aug. 22, 2000, as amended at 72 FR 36788, July 5, 2007; 75 FR 17241, Apr. 5, 2010]

§ 385.19 Safety fitness information.

(a) Final safety ratings, remedial directives, and safety fitness determinations will be made available to other Federal and State agencies in writing, telephonically, or by remote computer access.

(b) The final safety rating, any applicable remedial directive(s), and the safety fitness determination pertaining to a motor carrier will be made available to the public upon request. Any person requesting information under this paragraph must provide FMCSA with the motor carrier's name, principal office address, and, if known, the USDOT Number or the Interstate Commerce Commission MC (ICCMC) docket number if any.

(c) Requests should be addressed to the Federal Motor Carrier Safety Administration, Office of Information Technology (MC-RI), 1200 New Jersey Ave., SE., Washington, DC 20590-0001. The information can also be found at the SAFER website: <http://www.safer.org>.

(d) Oral requests by telephone to (800) 832-5660 will be given an oral response.

[62 FR 60043, Nov. 6, 1997, as amended at 66 FR 49872, Oct. 1, 2001; 72 FR 55701, Oct. 1, 2007; 75 FR 17241, Apr. 5, 2010]

Subpart B—Safety Monitoring System for Mexico-Domiciled Carriers

SOURCE: 67 FR 12771, Mar. 19, 2002, unless otherwise noted.

§ 385.101 Definitions

Compliance review means a compliance review as defined in § 385.3 of this part.

Provisional certificate of registration means the registration under § 368.6 of this subchapter that the FMCSA grants to a Mexico-domiciled motor carrier to provide interstate transportation of property within the United States solely within the municipalities along the United States-Mexico border